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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 **IN RE: BARD IVC FILTERS**
10 **PRODUCTS LIABILITY LITIGATION**

11 **This Order Relates to: All Actions**

12 MDL 15-21641 PHX DGC
13 **AMENDED CASE MANAGEMENT**
14 **ORDER NO. 1**

15 This Court set appointments of Plaintiffs' leadership in the original Case
16 Management Order No. 1 (Doc. 248) on October 30, 2015 for a term of one year. The
17 Court has reviewed Plaintiffs' Co-Lead/Liaison Counsel's Memorandum Re Leadership
18 Appointments (Doc. 3847) and issues this Amended Case Management Order No. 1 for
19 the appointment of individuals to Plaintiffs' leadership in this MDL for the term of this
20 Order.

21 **I. Plaintiffs' Leadership Counsel Appointments**

22 The Court having considered all of the applications submitted and other relevant
23 information, appoints the following plaintiffs' counsel to leadership positions, as indicated
24 and to be known as "Plaintiffs Leadership Counsel" (PLC):

25 **Plaintiffs' Co-Lead/Liaison Counsel and State/Federal Liaison Counsel**

26 Robert W. Boatman	Gallagher & Kennedy, PA 2575 E. Camelback Rd., Ste. 1100 Phoenix, AZ 85016
27 Ramon R. Lopez	Lopez McHugh, LLP 100 Bayview Cir., Ste. 5600 Newport Beach, CA 92660

1 **Plaintiffs' Executive Committee (PEC)**

2	Julia Reed Zaic	Heaviside Reed Zaic 312 Broadway St., Ste. 203 Laguna Beach, CA 92651
3	Howard L. Nations	The Nations Law Firm 3131 Briarpark Dr., #208 Houston, TX 77042
4	Russell W. Budd	Baron & Budd, P.C. 3102 Oak Lawn Ave., Ste. 1100 Dallas, TX 75219
5	Wendy R. Fleishman	Lieff, Cabraser, Heimann & Bernstein, LLP 250 Hudson St., 8th Floor New York, NY 10013

11 **Plaintiffs' Steering Committee (PSC)**

12	Shannon Clark	Gallagher & Kennedy, PA 2575 E. Camelback Rd., Ste. 1100 Phoenix, AZ 85016
13	John A. Dalimonte	Karon & Dalimonte, LLP 85 Devonshire St., Ste. 1000 Boston MA, 02109
14	Ben C. Martin	Law Offices of Ben C. Martin 3219 McKinney Ave., Ste. 100 Dallas, TX 75204
15	Joseph R. Johnson	Babbitt & Johnson, PA 1641 Worthington Rd., #100 West Palm Beach, FL 33409
16	Julia Reed Zaic	Heaviside Reed Zaic 312 Broadway St., Ste. 203 Laguna Beach, CA 92651
17	Howard L. Nations	The Nations Law Firm 3131 Briarpark Dr., #208 Houston, TX 77042
18	Russell W. Budd	Baron & Budd, P.C. 3102 Oak Lawn Ave., Ste. 1100 Dallas, TX 75219

1	Thomas P. Cartmell	Wagstaff & Cartmell, LLP 4740 Grand Ave., #300 Kansas City, MO 64112
2	Margaret Branch	Branch Law Firm 2025 Rio Grande Blvd, NW Albuquerque, NM 87104
3	Wendy R. Fleishman	Lieff, Cabraser, Heimann & Bernstein, LLP 250 Hudson St., 8th Floor New York, NY 10013
4	Donald A. Migliori	Motley Rice, LLC 321 South Main St., 2nd Floor Providence, RI 02903
5	Sheila M. Bossier	Freese & Goss, PLLC 1520 North State St. Jackson, MS 39202
6	Stuart L. Goldenberg	Goldenberg Law, PLLC 800 Lasalle Ave., #2150 Minneapolis, MN 55402
7	Christopher T. Kirchmer	Provost Umphrey Law Firm, LLP 490 Park St., P.O. Box 4905 Beaumont, TX 77704
8	Michael A. Kelly	Walkup, Melodia, Kelly & Schoenberger 650 California St. San Francisco, CA 94108
9	Matthew McCarley	Fears Nachawati Law Firm 4925 Greenville Ave., Ste. 715 Dallas, TX 75206
10	Hadley L. Matarazzo	Faraci Lange, LLP First Federal Plaza 28 East Main St., Ste. 1100 Rochester, NY 14614
11	Eric M. Terry	TorHoerman Law, LLC 101 W. Vandalia Edwardsville, IL 62025
12	Joseph A. Osborne	Osborne & Associates Law Firm, PA 433 Plaza Real, Ste. 271 Boca Raton, FL 33432

1	Michael T. Gallagher	The Gallagher Law Firm, LLP 2905 Sackett Street Houston, TX 77098
3	Nate Van Der Veer	Farris, Riley & Pitt LLP The Financial Center 505 20th Street North Birmingham, AL 35203
6	Matthew Schultz	Levin Papantonio Thomas Mitchell Rafferty Proctor, PA 316 S. Baylen St. Suite 600 Pensacola FL 32502
9	Steven Rotman	Hausfeld, LLP 1700 K Street NW Suite 650 Washington DC 20006

12 **II. Responsibilities**

13 **A. Procedural Matters**

14 1. As noted in this Court's previous Order Setting Initial Case
 15 Management Conference dated September 15, 2015, the Clerk of this Court will maintain
 16 a master docket case file under the style "*In Re: Bard IVC Filters Products Liability*
 17 *Litigation*" and the identification "MDL No. 2641." Lead/Liaison will be (a) the only
 18 attorneys permitted to file in the Master Docket as to all actions, and (b) the only attorneys
 19 receiving Notices of Electronic Filing for pleadings and orders filed in the Master Docket
 20 for all actions.

21 2. With regard to the Master Docket, Plaintiffs' Lead/Liaison Counsel
 22 shall:

- 23 a. Serve as the recipient for all Court orders.
- 24 b. Coordinate service and filings for all plaintiffs whether
 presently included or subsequently added.
- 25 c. Maintain and distribute to co-counsel and to Defendants'
 Counsel an up-to-date service list.
- 26 d. Maintain responsibility for service upon all other attorneys

1 and parties as to filings made in the master docket.
2 Specifically, Lead/Liaison Counsel shall receive and
3 distribute, to all other Plaintiffs' counsel, pleadings orders, and
4 motions by email, overnight courier service, or telecopier,
5 within two days after receipt, unless such service has been
6 waived, in writing, by a receiving counsel.

7 e. Coordinate discovery and litigation with similar cases outside
8 of this Court's jurisdiction.

9 3. Lead/Liaison Counsel is only responsible for service with regard to
10 filings in the Master Docket. With regard to case-specific filings, all attorneys of record in
11 the relevant member action will receive a Notice of Electronic Filing from the Court.

12 4. New counsel for later-filed or later-transferred cases that become part
13 of this MDL shall be responsible for checking the Master Docket for all orders previously
14 entered that may have relevance to such new cases.

15 **B. Responsibilities Specific to Lead/Liaison Counsel**

16 In addition to the responsibilities identified above, Plaintiffs' Lead/Liaison Counsel
17 shall:

18 1. Coordinate the establishment of a document depository, real or
19 virtual, to be available to all participating plaintiffs' counsel;

20 2. Maintain and make available to all participating plaintiffs' counsel of
21 record, at reasonable hours, a complete file of all documents served by or upon each party
22 (except documents as may be available at a document depository);

23 3. Prepare agendas for court conferences and periodically report
24 regarding the status of the case; and

25 4. Carry out such other duties as the Court may order.

26 **C. Responsibilities of Plaintiffs' Executive Committee**

27 The PEC shall assist, advise, and collaborate with Co-Lead Counsel in the
28 discharge of duties of liaison and Co-Lead Counsel outlined in Sections II. A and B

1 above. The PEC, with the authority of Co-Lead counsel, and in coordination with their
2 efforts and responsibilities, shall assist and collaborate with Co-Lead Counsel in the
3 administration, organization, and strategic decisions of the PLC. At the direction of Co-
4 Lead Counsel PEC members shall have the authority to make, supervise and oversee
5 assignments to other PSC members.

6 **D. Responsibilities Applicable to all Plaintiffs' Leadership Counsel**

7 Plaintiffs' Leadership Counsel shall have the following responsibilities:

8 5. Discovery

- 9 a. Initiate, coordinate, and conduct all pretrial discovery on
10 behalf of plaintiffs in all actions which are consolidated with
11 this MDL.
- 12 b. Develop and propose schedules for the commencement,
13 execution, and completion of all discovery on behalf of all
14 plaintiffs.
- 15 c. Cause to be issued in the name of all plaintiffs the necessary
16 discovery requests, motions and subpoenas pertaining to any
17 witnesses and documents needed to properly prepare for the
18 pretrial of relevant issues found in the pleadings of this
19 litigation.
- 20 d. Conduct all discovery in a coordinated and consolidated
21 manner on behalf and for the benefit of all plaintiffs.

22 6. Hearings and Meetings

- 23 a. Call meetings of counsel for plaintiffs for any appropriate
24 purpose, including coordinating responses to questions of
25 other parties or of the Court. Initiate proposals, suggestions,
26 schedules or joint briefs, and any other appropriate matters
27 pertaining to pretrial proceedings.

- 1 b. Examine witnesses and introduce evidence on behalf of
- 2 plaintiffs at hearings.
- 3 c. Act as spokespersons for all plaintiffs at pretrial proceedings
- 4 and in response to any inquiries by the Court, subject to the
- 5 right of any plaintiff's counsel to present non-repetitive
- 6 individual or different positions.

7. Miscellaneous

- 8 a. Submit and argue all verbal and written motions presented to
- 9 the Court on behalf of Plaintiff's Leadership Counsel as well
- 10 as oppose when necessary any motion submitted by
- 11 defendants or other parties which involve matters within the
- 12 sphere of the responsibilities of Plaintiffs' Leadership
- 13 Counsel.
- 14 b. Negotiate and enter into stipulations with defendants regarding
- 15 this litigation. All stipulations entered into by Plaintiffs'
- 16 Leadership Counsel, except for strictly administrative details
- 17 such as scheduling, must be submitted for Court approval and
- 18 will not be binding until ratified by the Court. Any attorney
- 19 not in agreement with a non-administrative stipulation shall
- 20 file with the Court a written objection within five (5) days
- 21 after he/she knows or should have reasonably become of
- 22 aware of the stipulation. Failure to object within the term
- 23 allowed shall be deemed a waiver and the stipulation will
- 24 automatically be binding on that party.
- 25 c. Explore, develop, and pursue all settlement options pertaining
- 26 to any claim or portion thereof of any case filed in this
- 27 litigation.

- d. Maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format, and having those documents available, under reasonable terms and conditions for examinations by all MDL plaintiffs or their attorneys.
- e. Perform any task necessary and proper for Plaintiffs Leadership Counsel to accomplish its responsibilities as defined by the Court's orders, including organizing subcommittees comprised of plaintiffs' lawyers not on Plaintiffs' Leadership Counsel.
- f. Work with Lead/Liaison Counsel to coordinate the responsibilities of Plaintiffs' Leadership Counsel meetings, keep minutes or transcripts of these meetings, appear at periodic Court-noticed status conferences, perform other necessary administrative or logistic functions of Plaintiffs' Leadership Counsel, and carry out any duty as ordered by the Court.
- g. Perform other such functions that may be expressly authorized by further Court Orders.

E. Reimbursement of Costs Expended

Plaintiffs' Leadership Counsel shall be entitled to seek reimbursement for costs expended at the time and in a manner approved by the Court. Reimbursements will be governed by a further case management order to be proposed by Plaintiffs' Leadership Counsel and entered by the Court.

III. Term of Appointments.

Appointments to all leadership positions in this order shall last for a term of one year from the date of this order unless terminated earlier by the Court. Thirty days before the expiration of this one-year term, Lead/Liaison Counsel shall file a memorandum

1 notifying the Court of the need to make further appointments and making
2 recommendations regarding those appointments.

3 Dated this 15th day of November, 2016.
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8 David G. Campbell
9 United States District Judge
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